IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

- -

MICHAEL HILL,

                ORDER

           Petitioner,

                10-cv-65-bbc

     v.

CAROL HOLINKA, Warden,

           Respondent.

- -

On March 24, 2011, I ordered petitioner to pay $0.17 as a partial payment of the $455 fee for filing his appeal. Petitioner paid the initial partial appeal fee on April 6, 2011. At the same time, petitioner submitted a motion for reconsideration of the March 24, 2011 order assessing the $0.17 partial appeal fee. He contends that he should be allowed to proceed in forma pauperis without paying an initial partial filing fee because his appeal is not subject to the 1996 Prison Litigation Reform Act.

Petitioner is correct that his appeal is not subject to the 1996 Prison Litigation Reform Act, because it is an appeal from a request for collateral relief under 28 U.S.C. § 2241, Walker v. O'Brien, 216 F.3d 626, 628-629 (7th Cir. 2000) ("the PLRA does not apply to any requests for collateral relief under 28 U.S.C. §§ 2241, 2254, or 2255"). However, in

1

determining whether a habeas corpus petitioner is eligible for pauper status, the court applies the formula set out in 28 U.S.C. § 1915(b)(1). Using that formula, I determined that petitioner owed a partial payment of the fee for filing his appeal of $0.17. Petitioner's motion for reconsideration will be denied.

In his motion for reconsideration, petitioner also asks the court for instructions on how to appeal the March 24, 2011 order. The court does not have separate instructions for filing appeals. However, if petitioner wants to appeal the March 24, 2011 order, he would need to file a notice of appeal in the same manner as he had done on March 7, 2011. Petitioner is advised that he would be responsible for a separate $455 filing fee if he were to file another notice of appeal.

ORDER

IT IS ORDERED that petitioner's motion for reconsideration of the March 24, 2011 order, dkt. 44, is DENIED.

Entered this 26th day of April, 2011.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge

2